



**File Code:** 1570  
15-02-00-0067-219  
**Date:** May 11, 2015

Jaimie N. Cavanaugh  
Mountain States Legal Foundation  
2596 South Lewis Way  
Lakewood, Colorado 80227

Dear Ms. Cavanaugh:

On February 9, 2015, you filed an objection on behalf of WillSource Enterprise LLC regarding the White River National Forest *Oil and Gas Leasing Decision*. The legal notice for that project was published in the *Glenwood Springs Post Independent* on December 12, 2014, which initiated the 60-day objection period. Your objection was timely. You had not provided previous comments on this project, but I am allowing your objection to proceed as it pertained to new information. This letter is my written response to your objection, as required by 36 Code of Federal Regulations (CFR) 219.56(g).

To satisfy 36 CFR 219.57(a), an objection resolution meeting was held with the objectors in Glenwood Springs, Colorado on April 27, 2015. You participated in that meeting by telephone. I was in attendance as was Scott Fitzwilliams, Supervisor of the White River National Forest and staff from both the forest and the Rocky Mountain Regional Office. We were unable to resolve your objections at that meeting.

### **Project Subject to Objection**

The White River National Forest proposes to make portions of that forest available for oil and gas leasing, to adopt stipulation requirements for use on those lands, to close other portions of the forest to oil and gas leasing, and to amend the White River National Forest Land and Resource Management Plan (LRMP).

Three alternatives were considered in detail in this project's final environmental impact statement. (FEIS) These alternatives included:

- Alternative A – No Action (current management);
- Alternative B (Scenario 1 & 2) – No New Leasing;
- Alternative C (Scenario 1 & 2) – Proposed Action.

Scenario 1 assumes the 39 leased/undeveloped parcels would expire or terminate and subsequently be closed to future leasing through management direction (Alternative B) or a combination of closed to future leasing through management direction and available for lease (Alternative C).



Scenario 2 assumes the 39 leased/undeveloped parcels would not expire and would be developed under the 1993 WRNF Oil and Gas Leasing stipulations and/or stipulations they were leased under. As detailed in the Draft Record of Decision (DROD) for this project, a combination of Alternatives B and C was selected for implementation.

### **Objection Responses**

Following are summaries of the objection issues, paraphrased from the actual objections filed by the addressee. The agency response then follows each summarized issue.

**Objection Issue 1:** WillSource objects to the issuance of the DROD prior to the final decision of the Bureau of Land Management (BLM) on the BLM environmental impact statement that addresses 65 previously issued oil and gas leases.

***Objection Response*** – Oil and gas leasing on National Forest System land (NFS) is a collaborative process between the BLM and the Forest Service. The BLM is in the process of analyzing 65 previously issued leases in the White River National Forest. The BLM announced that effort through publication of a notice of intent on April 2, 2014. That publication occurred between the release of the White River National Forest Oil and Gas Leasing Project Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS). The FEIS and DROD include extensive references to the BLM effort. (FEIS Sections: 1.4, 1.5, 3.6, Response to Comments and DROD). BLM has not made a final decision.

The project analysis was based on the assumption that 26 of the 65 existing leases were either part of a unit or held by production (developed) and 39 of the existing leases were undeveloped. Two scenarios were then developed for the FEIS which modeled how those leases might be managed in the future. (FEIS Section 3.2.10 and DROD) The FEIS used the best information available at the time the analysis was conducted, disclosed that information and fully and adequately considered the information in its draft decision. The DROD clearly stated that the White River National Forest leasing decision does not affect existing leases.

The White River National Forest Oil and Gas Leasing Decision encompasses lands outside of the BLM analysis area. Delaying the Forest Service decision would impact management well beyond the area containing the 65 leases in question. The timing of the White River National Forest Oil and Gas Leasing Decision is justified as the FEIS and DROD make clear that the White River National Forest leasing decision does not affect existing leases. The timing of the decision is appropriate.

**Objection Issue 2a:** Closing acreage surrounding current leases is arbitrary and capricious. High potential acreage surrounding existing leases should not be closed.

***Objection Response:*** The Responsible Official discussed the decision rationale at length (DROD), and considered relevant portions of the analysis described under Alternatives A, B and C for leasing in the Thompson Divide area. (FEIS Sections 1.6 at Table 4 and 2.2) Alternative C as described in the DEIS indicated that all lands within the Thompson Divide would have been available for leasing (DEIS 2-49). This would have included the areas



outside of the existing leases. Alternative analysis evolved through consideration of the comments received on the DEIS.

The analysis and did not overlook evidence or make a decision unsupported by the facts. The decision does not lack logic, and it is not a clear error of judgment. None of the criteria necessary for an arbitrary or capricious decision are present in the leasing analysis and decision.

**Objection Issue 2b:** Closing acreage surrounding current leases is arbitrary and capricious. The Forest Service should not alter the existing conditions surrounding the 65 leases being conserved by the BLM until the BLM issues its Environmental Impact Statement (EIS).

**Objection Response** – The Responsible Official discussed the decision rationale at length. (DROD) The DROD states that the “decision does not affect existing oil and gas leases unless a lease expires, is relinquished or is terminated.” Therefore, the decision on how land surrounding the 65 leases is managed does not affect any of those leases. In addition, the DROD states that the BLM analysis and subsequent decision of the previously issued oil and gas leases does not affect the White River Oil and Gas leasing decision. The scenarios added to Alternatives B and C account for the possibility that existing undeveloped leases could be reaffirmed, voided or modified as a result of the BLM future decision.

The BLM is responsible for the actual leasing of federal oil and gas minerals on national forests. The Forest Service is responsible for the management of surface resources on national forests and the leasing availability analysis is a reflection of the desired conditions the agency would like over the next 15-20 years. What the BLM decides to do with the 65 existing leases has no bearing on the Forest Service’s desired conditions for surface resources on surrounding lands.

**Objection Issue 3:** The use of a No Surface Occupancy (NSO) stipulation on over 150,000 acres would make it infeasible to develop large areas for oil and gas resources.

**Objection Response** - The FEIS contains extensive information on this issue of NSOs. (FEIS Sections 1.4, 1.5, 1.8, 2.2, 2.4, 3.2.10, 3.5.2, and Appendices A, B, and D, as well as the DROD). Much of the acreage in question was subject to the 2012 Colorado Roadless Rule, which limits the decision space of the Responsible Official in those areas.

The FEIS acknowledged that while some NSO areas could be developed without building roads, such opportunities would likely be very limited. In summary, the application of NSO lies within the discretion of the Responsible Official for this decision, and is supported by the analysis in the FEIS.

### **Suggested Remedies:**

In your objection, you stated that the Forest Service should not issue the White River National Forest Oil and Gas Leasing final EIS until after the BLM completed its own EIS regarding the 65 previously issued leases. You also recommended that Alternative A be chosen instead.

**Conclusion:**

Based on my review of your objection, the FEIS and objection record, I find no violation of law, regulation or policy. My review has led me to conclude that no changes to the analysis documents are needed as it relates to your objection, however, I am instructing the Responsible Official, Forest Supervisor Scott G. Fitzwilliams to address issues raised by other objectors. As required by 36 CFR 219.58(a), Forest Supervisor Fitzwilliams cannot sign a decision for this project until all instructions have been addressed. This response is not subject to further administrative review by the Forest Service or the Department of Agriculture pursuant to 36 CFR 219.57(b)(3).

If you have any questions or concerns regarding this response, please contact Nancy Miller at 303-275-5373 or [njmillier@fs.fed.us](mailto:njmillier@fs.fed.us).

Sincerely,



JAMES S. BEDWELL  
Acting Deputy Regional Forester  
Reviewing Official

cc: Scott Fitzwilliams, Sarah Haskins, Wendy Haskins